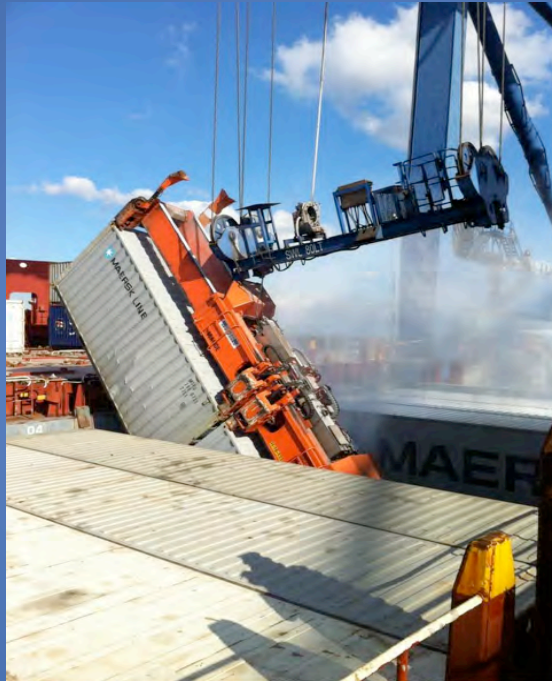


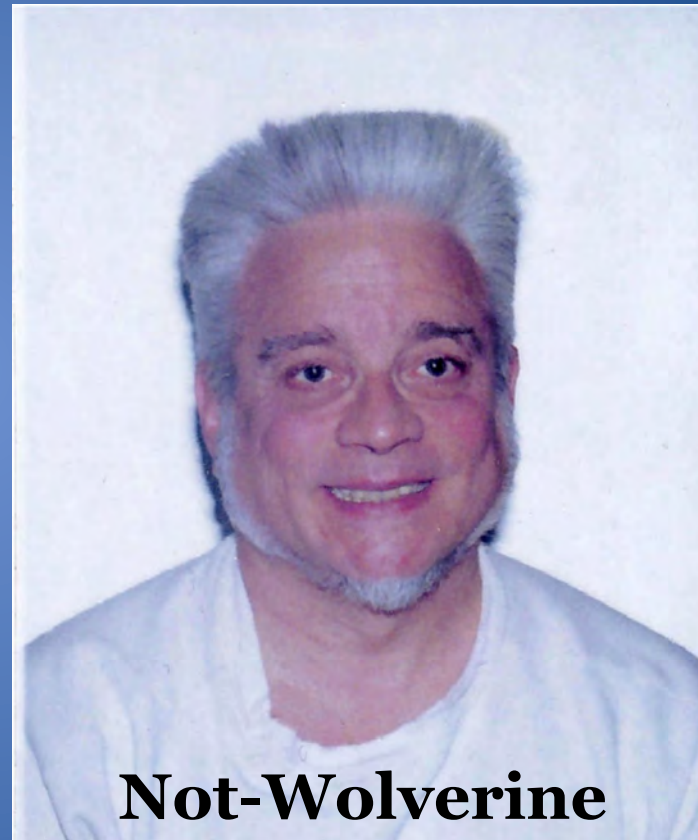
Occupational Safety in the Marine Cargo Handling Industry



The Fundamental Parts of the Equation
and The Current Experience

How The Issues Are Presented

- Visually
[Through PowerPoint Slides]
- Oral Narrative
[To Better Understand The Stakeholders & The Relevant Laws and Regulations]
- Real Life Experience
[Fatal Accidents That Have Occurred at US Ports In CYs 2014/2015]



Not-Wolverine

Appreciating The Financials

A Marine Terminal Operator's Hierarchy of Recurring Costs *

- 1). Payroll (Labor)
- 2). Property Rental Fees
- 3). Insurance (General Liability/Worker's Compensation)

* Higher cost equipment, i.e., container cranes, RTGs , etc., are infrastructure investments often expensed by the local port authority.

State Workers' Compensation Laws

1855: Georgia; Alabama – Employer Liability Acts - Permitted Employees to File Suit and then Prove Employer Negligence/Omissions

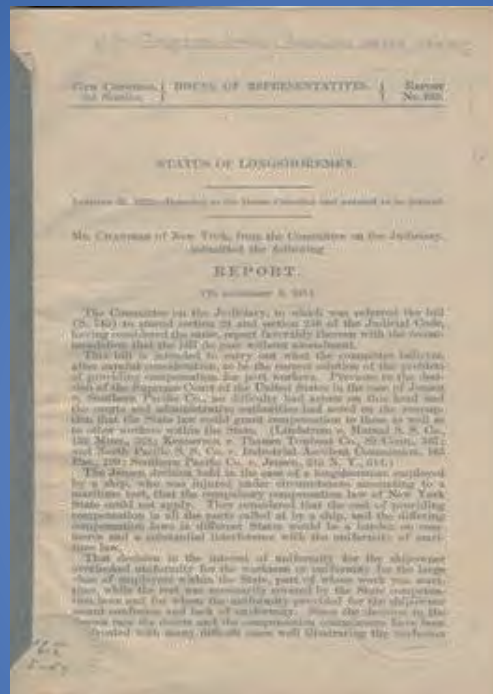
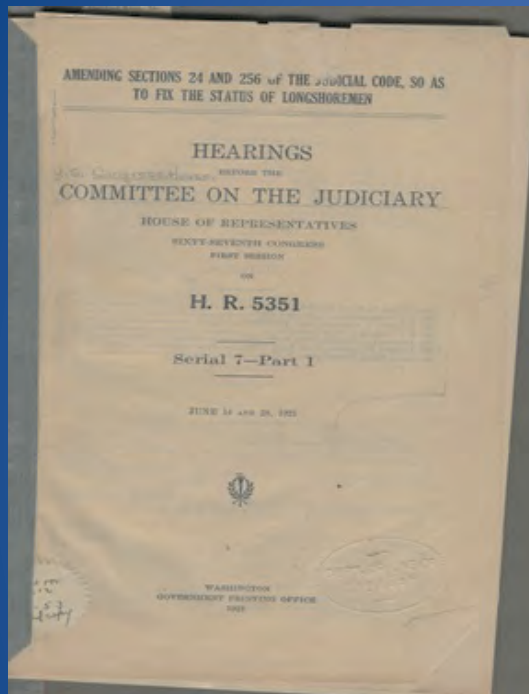
1902: Maryland – First Neutral, No-Fault, Sole Remedy Worker's Compensation Law

1949: All States Had Similar Laws, Basing Compensation Payments on the SAWW (**State Average Weekly Wage**)

2015/2016: Nat'l Average Weekly Wage: **\$703.00**



The Jensen Era



- *Southern Pacific v. Jensen* (1917)
- *Knickerbocker v. Stewart* (1920)
- *Washington v. Dawson* (1924)

Memorializing an internecine turf fight between the U.S. Congress and the Supreme Court, in determining the method (or indeed the existence) of worker's compensation for injuries sustained *on the navigable waters* of the U.S.

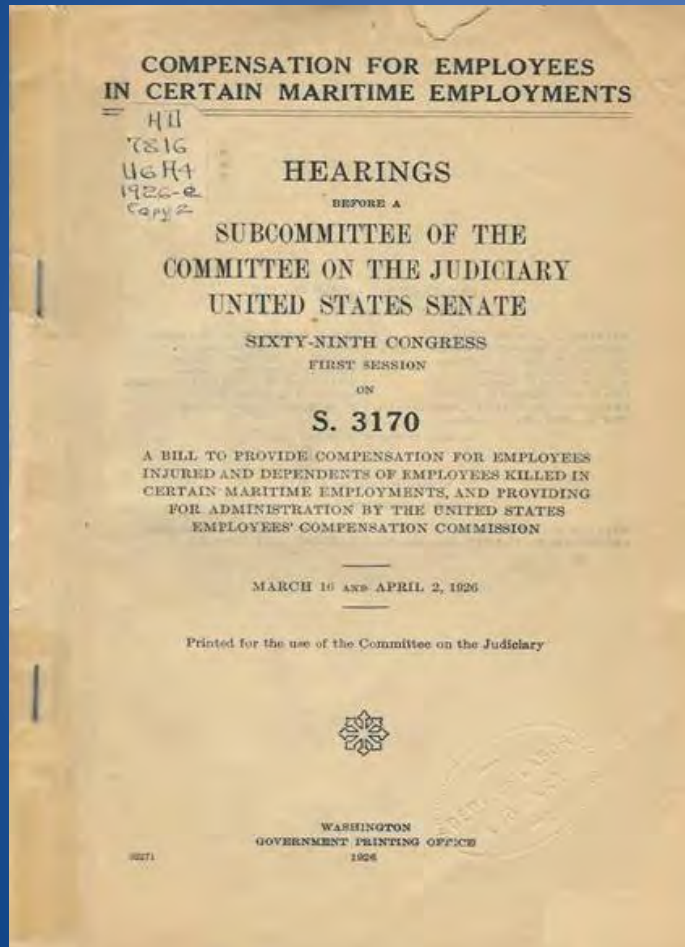
U.S. Constitution

Article III.

Section. 2.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;

LHWCA of 1927



- Creates a Federal scheme for the payment of compensation to marine cargo handling and shipyard workers injured “*on the navigable waters of the United States.*”

Validated by the Supreme Court in:

- *T. Smith & Son v. Taylor* (1928)
- *Minnie v. Port Huron Terminals* (1935)

Compensation Rates (LHWCA)

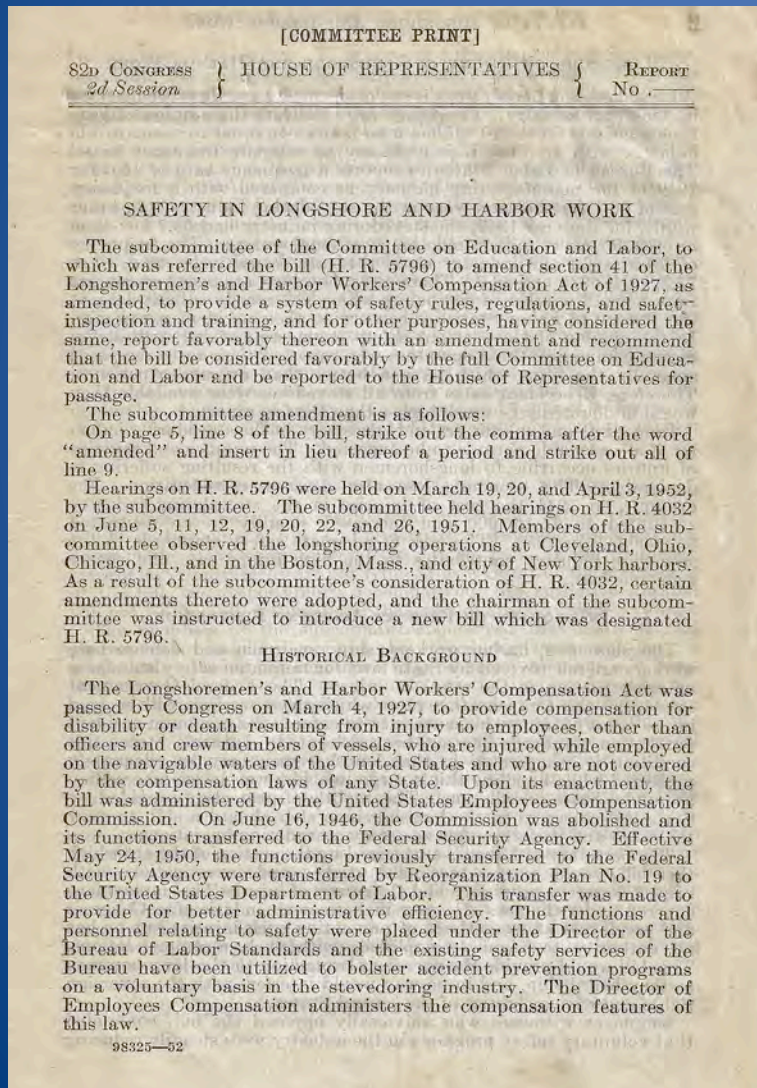
10 Year Lookback



<u>Point In Time</u>	<u>NAWW</u>	<u>MAX</u>	<u>MIN</u>	<u>% Incr</u>
10/01/2015- 09/30/2016	\$703.00	\$1,406.00	\$351.50	2.10%
10/01/2014- 09/30/2015	\$688.51	\$1,377.02	\$344.26	2.25%
10/01/2013 - 09/30/2014	\$673.34	\$1,346.68	\$336.67	1.62%
10/01/2012 - 09/30/2013	\$662.59	\$1,325.18	\$331.30	2.31%
10/01/2011 - 09/30/2012	\$647.60	\$1,295.20	\$323.80	3.05%
10/01/2010 - 09/30/2011	\$628.42	\$1,256.84	\$314.21	2.63%
10/01/2009 - 09/30/2010	\$612.33	\$1,224.66	\$306.17	2.00%
10/01/2008 - 09/30/2009	\$600.31	\$1,200.62	\$300.16	3.47%
10/01/2007 - 09/30/2008	\$580.18	\$1,160.36	\$290.09	4.12%
10/01/2006 - 09/30/2007	\$557.22	\$1,114.44	\$278.61	3.80%
10/01/2005 - 09/30/2006	\$536.82	\$1,073.64	\$268.41	2.53%

Source: U.S. Dept of Labor ~ OWCP

(1951) Organized Labor Initiates Attempts to Legislatively “Perfect” the LHWCA



- ILA/ILWU
- Boilermakers
- Steelworkers
- Carpenters

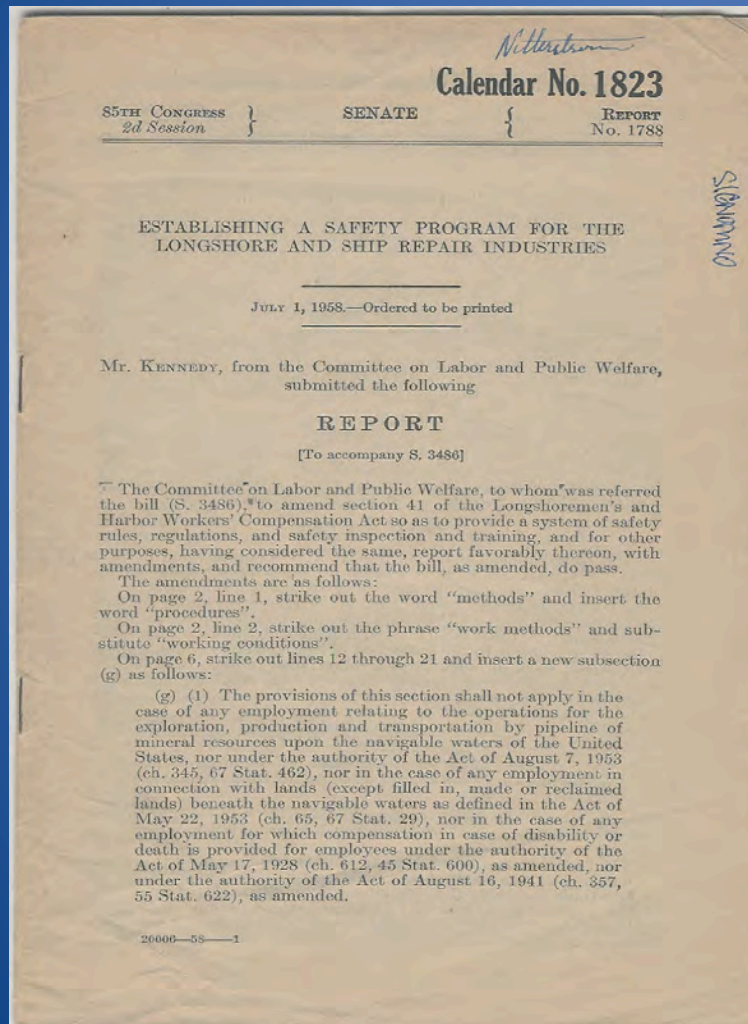
- Higher than usual number of explosions in shipyards.
- Increased trade volumes w/ more cargo gear failures.
- Post 1953: Political incentives to reseat a Democratic president

The Political Landscape

U.S. House of Representatives (1955)

COMMITTEE ON EDUCATION AND LABOR	
GRAHAM A. BARDEN, North Carolina, <i>Chairman</i>	
AUGUSTINE B. KELLEY, Pennsylvania	SAMUEL K. McCONNELL, Jr., Pennsylvania
ADAM C. POWELL, Jr., New York	RALPH W. GWINN, New York
JOHN S. WOOD, Georgia	WALTER E. BREHM, Ohio
JOHN F. KENNEDY, Massachusetts	WINT SMITH, Kansas
WINGATE H. LUCAS, Texas	CARROLL D. KEARNS, Pennsylvania
CLEVELAND M. BAILEY, West Virginia	THRUSTON BALLARD MORTON, Kentucky
LEONARD IRVING, Missouri	THOMAS H. WERDEL, California
CARL D. PERKINS, Kentucky	HAROLD H. VELDE, Illinois
CHARLES R. HOWELL, New Jersey	CHARLES E. POTTER, Michigan
TOM STEED, Oklahoma	RICHARD B. VAIL, Illinois
ROY W. WIER, Minnesota	E. Y. BERRY, South Dakota
BOYD TACKETT, Arkansas	
ERNEST GREENWOOD, New York	
FRED G. HURSEY, <i>Chief Clerk</i>	
JOHN O. GRAHAM, <i>Minority Clerk</i>	
JOHN S. FORSYTHE, <i>General Counsel</i>	
DAVID N. HENDERSON, <i>Assistant General Counsel</i>	
RUSSELL C. DERRICKSON, <i>Investigator</i>	
SUBCOMMITTEE ON SAFETY IN LONGSHORE AND HARBOR WORK	
JOHN F. KENNEDY, Massachusetts, <i>Chairman</i>	
CLEVELAND M. BAILEY, West Virginia	CARROLL D. KEARNS, Pennsylvania

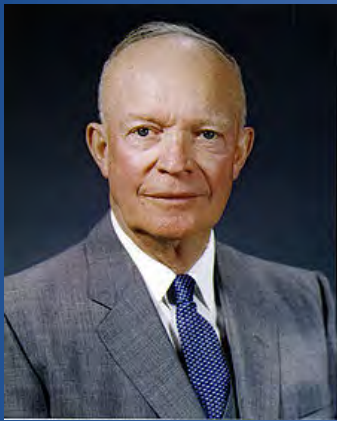
The 85th Congress (1957-1958)



- Sustained organized labor efforts to widen LHWCA coverage and increase safety protection.
- Political impetus now gradually translated into labor support for one prospective Democratic presidential candidate.

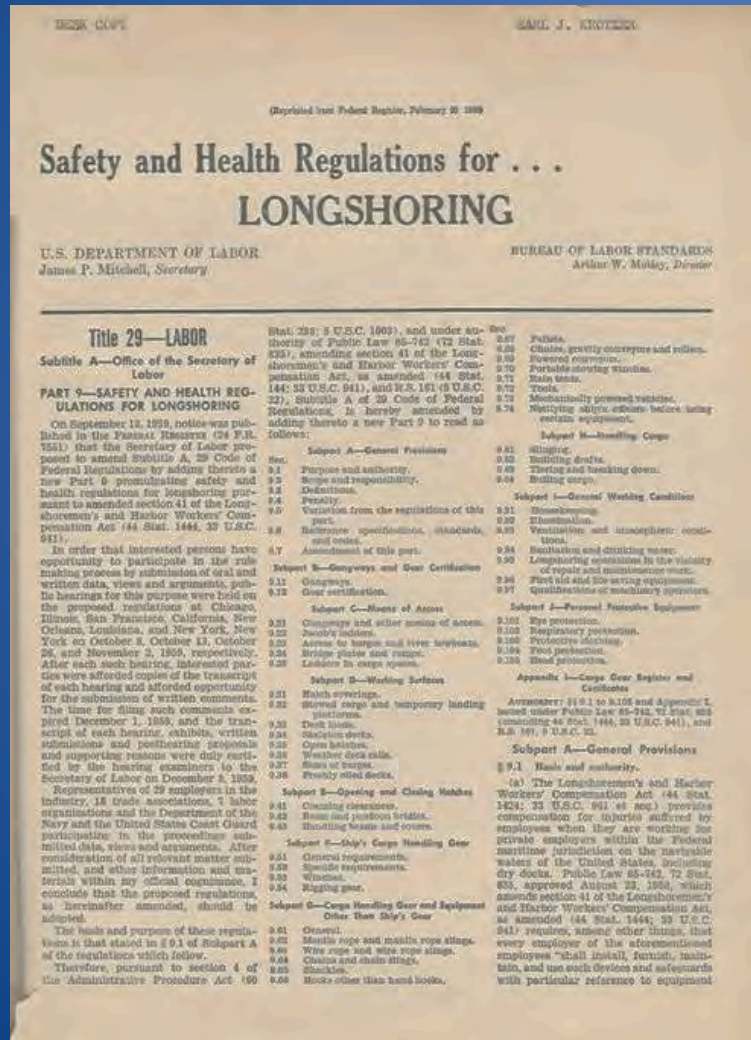
The 1958 LHWCA Amendments

[Public Law 85-742/ The Kennedy Maritime Safety Act]



- Political compromise brokered by Senate Majority Leader Lyndon Johnson, with JFK as strongest proponent.
- Resisted by Ike; needed by Richard Nixon to appease Labor in his (1960) bid for Presidency.
- Expanded §41 of LHWCA, to provide for safety standards, enforcement and training.
- Put in the enforcement hands of DOL (LSB).

The 1st U.S. Federal Longshoring Industry Safety Regulations



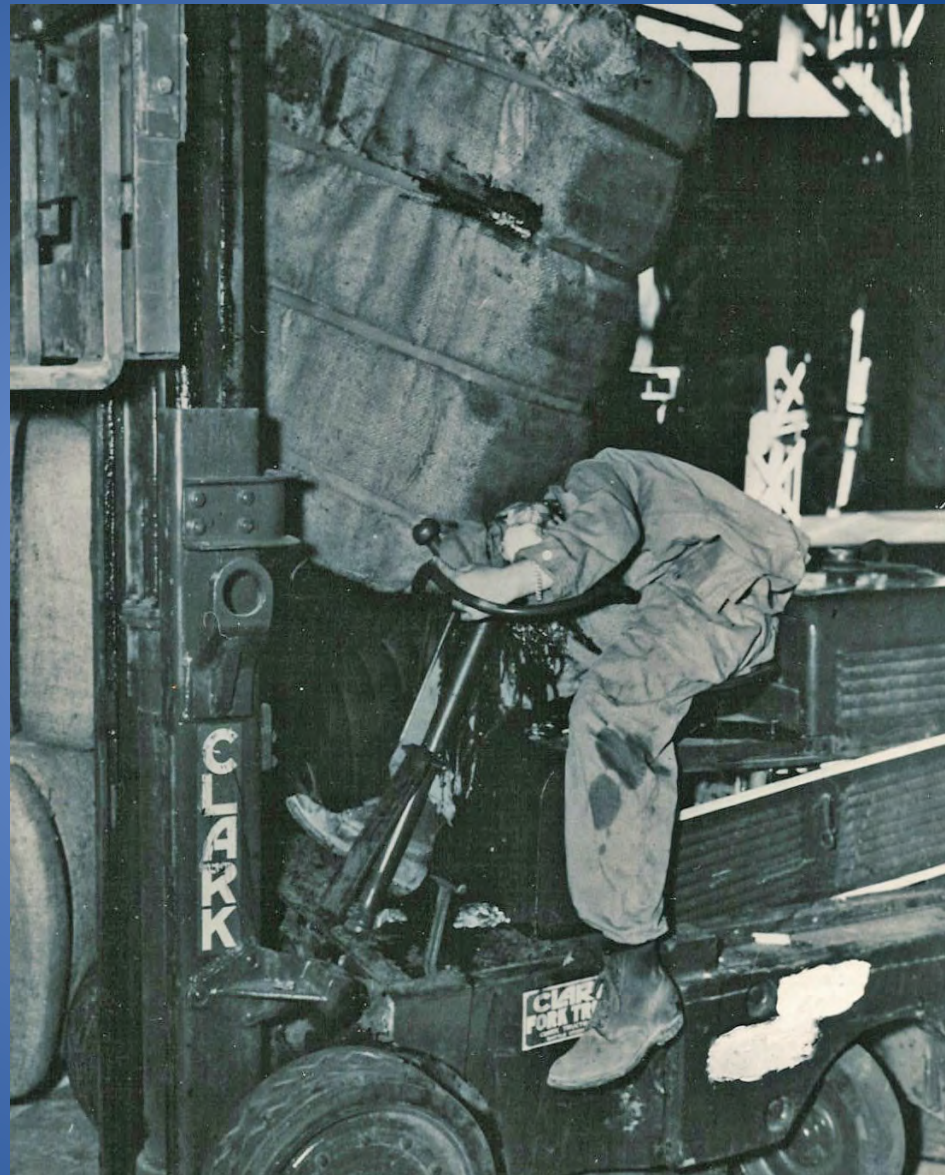
- Published in the **FEDERAL REGISTER**, February 20, 1960

- Applicability tracked the jurisdiction of enabling legislation (LHWCA), i.e., to work *“on the navigable waters”*

- Work on terminals therefore, not covered

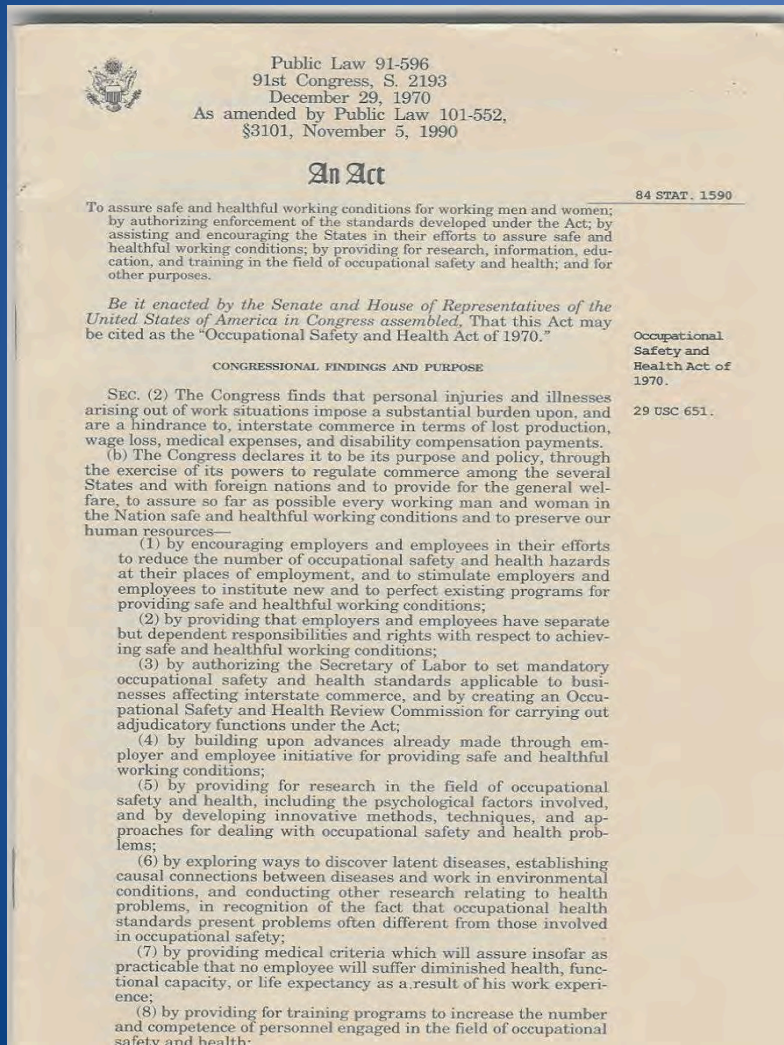
Other Laborers
and Industrial
Workers Wanted
To Be Protected
On The Job, As
Well.

To Achieve That
Goal, They Must
Take Their
Message To
Congress:



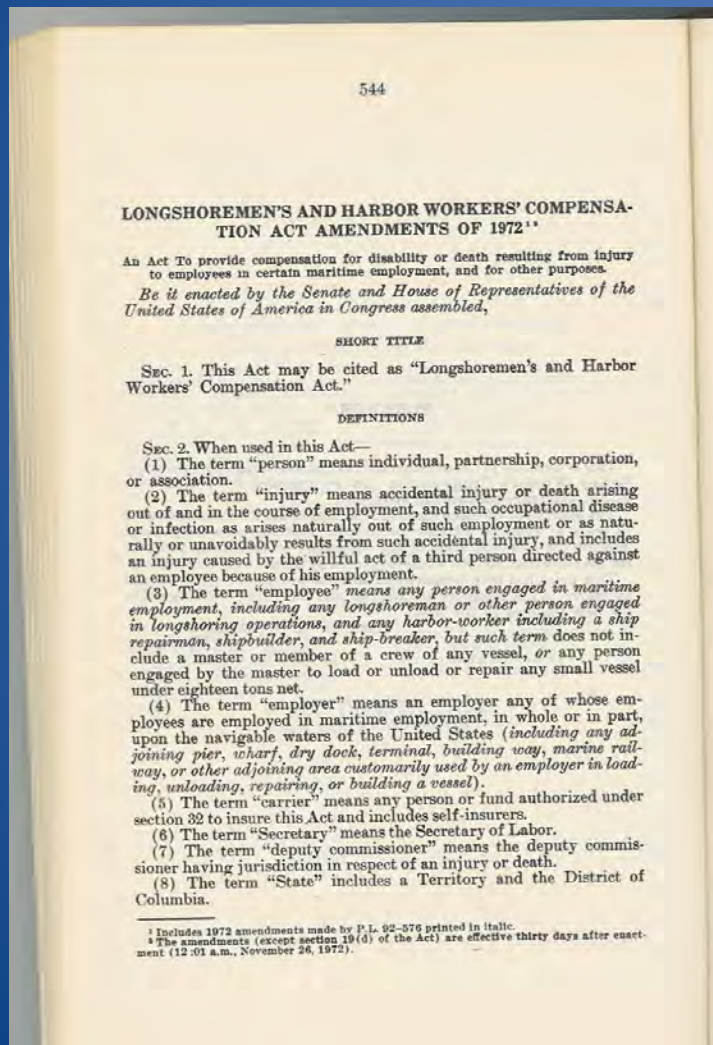
The Occupational Safety & Health Act of 1970

[Public Law 91-596]



- Signed into law by Richard Nixon, December 29, 1970
- Extended to all workplaces
- Adopted all existing Federal Safety Standards (including the Longshoring safety regulations under LSB care)
- “on the navigable waters” limitations of LHWCA (for safety/health purposes) no longer apply

LHWCA Extensions of 1972

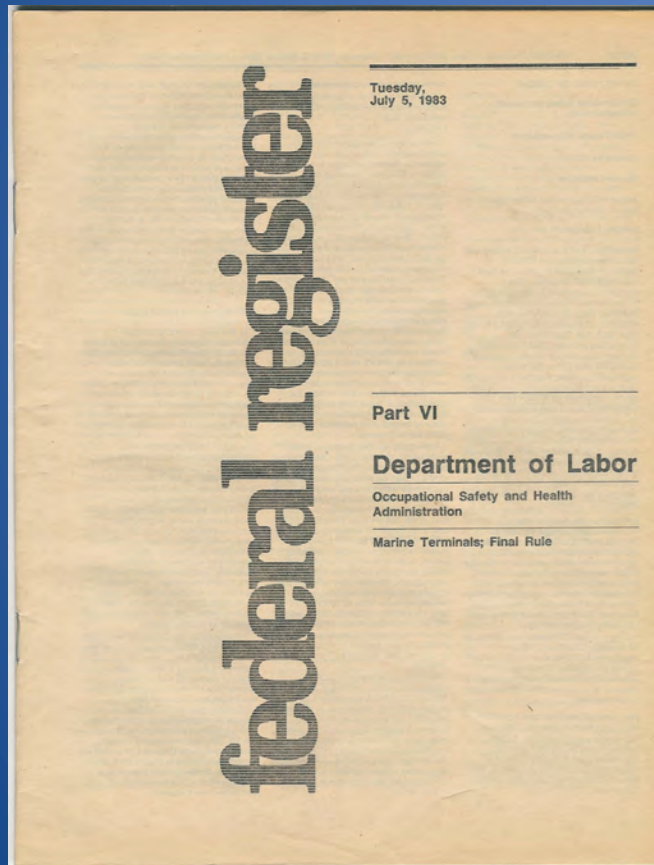


- Brings existing Federal program of compensation ashore
- Now, additionally covers "*related employments*"
- Substantially boosts amount of compensation paid to recipients

OSHA Regulations Having Application at Marine Cargo Handling Workplaces

The Marine Terminals Standard

[29 CFR 1917]

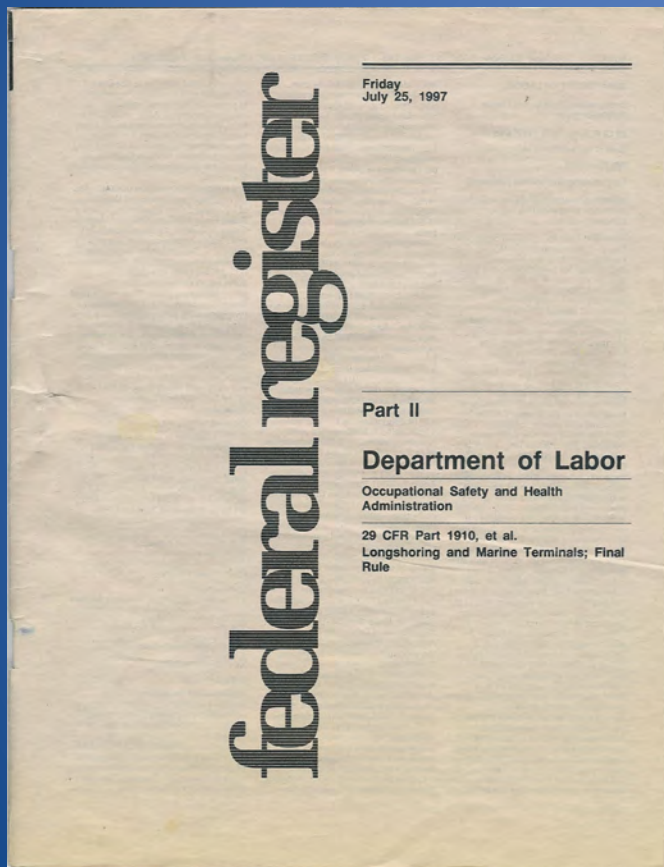


Applies From the
Terminal's Gate to the Foot
of the Gangway

(and everything in-
between)

Longshoring Standard

[29 CFR Part 1918]



Applies From the Foot of
the Gangway, to All Cargo
Handling Operations
Being Conducted Aboard
Any Vessel

Lots Of Regulations...

What's Their Purpose?

Decrease Human Suffering



Offset Financial Loss



Help Prevent Even Greater Financial Loss



Culture Effective Labor Relations



Goal No. 1

Accorded The Highest Priority, Taking Precedence Over Any
Other Consideration:

**All Workers Get To Go Home In The Same
Good Physical Condition They Came To
Work In.**

No Ocean Carrier, Marine Terminal Operator, Stevedore,
Labor Union or Port Authority Can Possibly Hope To
Attain the Desired Increased Levels of Efficiency,
Productivity or Profit, Without First Attaining Consistent
Success In Achieving Goal No. 1.

Fatal Accidents at US Ports

CY 2014 [2nd Half]

02 July 2014
Miami, FL

Veteran Longshoreman, Charles Thomas, 61 Struck By
Reach Stacker While A Pedestrian In Container Yard.

We understand that the reach stacker had just removed
an empty container from a chassis, and was moving
forward in order to stack the box. The operator did not
see Mr. Thomas, who was walking directly in front of
the load being carried.

Prior to this accident, container terminals working within the
framework of the ILA-USMX Master Contract had experienced
nearly two years of fatality-free operations.

Fatal Accidents at US Ports

CY 2015 [Jan to Date]

13 March 2015

Anchorage, AK



Charles Tom James, a longshore worker, was killed in an industrial accident at Anchorage today.

Port officials say the man was helping to unload military equipment off a ship and onto a rail car so it could be taken to Fairbanks.

Mr. James was on the rail car when port officials say his head was pinned between two pieces of heavy equipment and he was crushed.

21 June 2015

Newport News, VA

Mr. Bernard Carrington, a member of ILA Local Union 1736, was operating an industrial truck down a warehouse ramp when the machine struck the ramp edge and tipped over. Our sources indicate that he was struck by the overhead guard assembly of the industrial truck after he was ejected.



07 August 2015

Port Elizabeth, NJ

A Port Elizabeth, NJ dockworker was struck and killed by a container top loader on August 7.

Judy Jones, 49, a member of ILA Local Union 1233, was pronounced dead at the scene by emergency response personnel.

According to reports, Jones' leg was severed in the incident and she bled to death.



11 August 2015

Los Angeles, CA

Reports coming to us indicate that a fill-in clerk was driving a terminal pickup truck when he struck a terminal yard tractor. Rochelle Taylor, a member of ILWU Local Union 13 died in hospital of injuries sustained in the crash.



Table 1-1: TOTAL WATERBORNE COMMERCE OF THE U.S., 1974-2013
(in short tons of 2000 pounds)

Year	Total	Foreign	Domestic
1974	1,746,788,544	764,088,905	982,699,639
1975	1,695,034,366	748,707,407	946,326,959
1976	1,835,006,819	855,963,909	979,042,910
1977	1,908,223,619	935,256,813	972,966,806
1978	2,021,349,754	946,057,889	1,075,291,865
1979	2,073,757,628	993,444,963	1,080,312,665
1980	1,998,887,402	921,404,000	1,077,483,402
1981	1,941,558,947	887,102,150	1,054,456,797
1982	1,776,740,579	819,730,983	957,009,596
1983	1,707,661,011	751,140,194	956,520,817
1984	1,836,020,619	803,338,133	1,032,682,486
1985	1,788,434,822	774,323,283	1,014,111,539
1986	1,874,416,280	837,223,503	1,037,192,777
1987	1,967,458,261	890,980,045	1,076,478,216
1988	2,087,993,484	976,220,985	1,111,772,499
1989	2,140,442,372	1,037,910,213	1,102,532,159
1990	2,163,854,373	1,041,555,740	1,122,298,633
1991	2,092,108,462	1,013,557,036	1,078,551,426
1992	2,132,095,154	1,037,466,130	1,094,629,024
1993	2,128,221,188	1,060,041,217	1,068,179,971
1994	2,214,754,086	1,115,742,828	1,099,011,258
1995	2,240,393,059	1,147,357,782	1,093,035,277
1996	2,284,065,249	1,183,386,621	*1,100,678,628
1997	2,333,142,046	1,220,615,132	1,112,526,914
1998	2,339,500,081	1,245,388,049	1,094,112,032
1999	2,322,557,251	1,260,770,656	1,061,786,595
2000	2,424,588,877	1,354,790,984	1,069,804,693
2001	2,393,298,249	1,350,826,076	1,042,472,173
2002	2,340,291,913	1,319,290,931	1,021,000,982
2003	2,394,251,814	1,378,115,758	1,016,136,056
2004	2,551,939,029	1,504,851,381	1,047,087,648
2005	2,527,622,229	1,498,711,806	1,028,910,423
2006	2,588,440,451	1,564,944,286	1,023,496,165
2007	2,563,971,539	1,542,452,190	1,021,519,349
2008	2,477,094,228	1,520,758,974	956,335,255
2009	2,210,751,710	1,353,667,060	857,084,650
2010	2,334,398,600	1,440,937,396	893,461,204
2011	2,367,483,603	1,479,553,348	887,930,255
2012	2,306,810,362	1,421,894,930	884,915,432
2013	2,274,777,616	1,383,625,910	891,151,706

Source: USACE

Total Waterborne Commerce of the U.S. (1974-2013)

In 2013 (latest year w/refined data):

2,274,777,616 Short Tons

Cargo-Related Fatal Accidents
Occurring at US Ports (2013):

08 (Source: Bureau of Labor Statistics)

The Industry's Performance: Fatal Accidents ~ 2013

Industry ¹	NAICS code ¹	Total fatal injuries (number)
Other transit and ground passenger transportation	48599	6
Special needs transportation	485991	4
Pipeline transportation	486	1
Pipeline transportation of crude oil	4861	1
Pipeline transportation of crude oil	48611	1
Scenic and sightseeing transportation	487	6
Scenic and sightseeing transportation, land	4871	2
Scenic and sightseeing transportation, land	48711	2
Scenic and sightseeing transportation, other	4879	4
Support activities for transportation	488	69
Support activities for air transportation	4881	9
Airport operations	48811	3
Support activities for rail transportation	4882	3
Support activities for rail transportation	48821	3
Support activities for water transportation	4883	15
Marine cargo handling	48832	8
Navigational services to shipping	48833	4
Support activities for road transportation	4884	37

Source: US Bureau of Labor Statistics

[07] [CAMERA07] [Thu Oct 23 2008] [09:08:02]







*suscribete a mi canal
encabezeta*

2013-07-08 14:54:54



修和拍客

The Most Recent East and Gulf Coast Labor & Management OSH Initiative, Designed To Advance the Industry's Occupational Safety & Health Experience:

(January ~ 2014)

ILA~USMX JOINT RESOLUTION ON PORT SAFETY & HEALTH

WHEREAS, the International Longshoremen's Association, AFL-CIO (ILA) and the United States Maritime Alliance, Ltd. (USMX) recognize the necessity of maintaining a proactive approach in relation to occupational safety & health (OSH) issues which must be soberly and responsibly addressed by both parties; and

WHEREAS, the ILA and the USMX have created a Joint Safety Committee (JSC) comprised of three (3) ILA Members, three (3) USMX Members and a Technical Facilitator; to initiate the industry's review of relevant OSH issues; and

WHEREAS, the JSC has made significant progress in creating a greater awareness of OSH issues on an industry wide basis, and will continue to assist labor and management interests throughout the various port districts in successfully approaching OSH issues, *to wit*:

■ Providing guidance and knowledge to ILA, its Local Unions; USMX and its member Port Associations in relation to a diverse range of OSH issues; utilizing 29 CFR Parts 1917 & 1918 as mandatory OSH rules and supplementing such rules at the discretion of the JSC.

■ Working closely with the National Maritime Safety Association (NMSA), Port Associations, individual employers and ILA Local Unions to develop uniform OSH practices, policies and procedures to be followed at all Master Contract ports. This would include efforts to initiate the development of a greater number of industry-wide safety training procedures and, to the extent practicable, job specific standards for all relevant crafts.

■ Requiring every Master Contract port to establish an ILA--Employer joint safety committee (where none presently exist) to review and investigate accidents, to monitor and improve workplace OSH conditions and to develop and enforce reasonable, effective and compassionate disciplinary procedures.

■ Monitoring local port compliance with all provisions of the Master Contract Drug and Alcohol Testing Program, including Random testing provisions & enforcement protocols.

■ As necessary, appoint subcommittees that are comprised of knowledgeable and well motivated local ILA and Port Employer Members to supplement the work of the JSC.

NOW, THEREFORE, the undersigned adopt the following amendments to the ILA--USMX Master Contract:

1). The Joint Safety Committee (JSC) shall be a standing committee and shall discharge the following responsibilities:

a). It shall provide OSH--related guidance and knowledge to USMX and ILA (including local Port Employers and Labor Locals) with the goal of making each and every Master Contract marine cargo handling activity a safe place for all employees to work.

b). It shall monitor each local port's compliance with the Master Contract Drug and Alcohol Testing Program.

c). It shall serve as a clearinghouse; in coordination with the National Maritime Association (NMSA) Technical Committee, for reporting and analyzing all serious accidents occurring at Master Contract marine cargo handling operations.

d). At the request of Management and ILA leadership at any Local Port or District, or on its own initiative, the JSC shall be empowered to investigate any serious accident occurring at Master Contract marine cargo handling operations.

e). It shall be authorized to appoint subcommittees that are comprised of knowledgeable and well--motivated local ILA and Port Employer Members to supplement the work of the JSC.

f). It shall submit quarterly activity reports to ILA and USMX leadership, detailing the work of the JSC.

g). It shall ensure that each Master Contract port establishes a local joint safety committee comprised of equal numbers of subjectively well--versed and well--motivated labor and management representatives. Labor representatives so appointed shall not hold concurrent elective office.

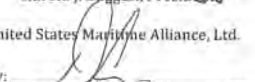
Such local committees shall have the authority to review and investigate accidents, to establish local OSH procedures and policies (in consultation with and approval of the ILA--USMX Joint Safety Committee) and to develop and enforce appropriate disciplinary procedures; provided that such procedures remain consistent with those already agreed upon and in place at the relevant port(s).

Dated: January 15, 2014

International Longshoremen's Association, AFL-CIO

By: 
Harold J. Daggett, President

United States Maritime Alliance, Ltd.

By: 
David E. Adam, Chairman & CEO

“Be Careful Out There.....!”

www.blueoceana.com

